



# PROPOSED RULE MAKING

**CR-102 (June 2004)**

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Agriculture

- ☒ Preproposal Statement of Inquiry was filed as WSR 06-06-086; or  
☐ Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or  
☐ Proposal is exempt under RCW 34.05.310(4).

- ☒ Original Notice  
☐ Supplemental Notice to WSR \_\_\_\_\_  
☐ Continuance of WSR \_\_\_\_\_

**Title of rule and other identifying information: (Describe Subject)**

Apple Maggot and Plum Curculio Quarantine (WAC 16-470-101 through 16-470-118). This proposal amends the current apple maggot and plum curculio quarantine by:

- Expanding the boundaries of the existing area under apple maggot quarantine in Yakima County;
- Excluding commercial cherries from commodities regulated for apple maggot; and
- Modifying the current language to increase its clarity and readability.

An effective date of August 1, 2006 is proposed.

**Hearing location(s):**

Washington State Dept. of Agriculture  
21 North 1<sup>st</sup> Avenue  
Conference Room 238  
Yakima, WA 98902

Date: June 8, 2006 Time: 11:00 AM

**Submit written comments to:**

Name: Henri Gonzales

Address: PO Box 42560, Olympia, WA 98504-2560

e-mail hgonzales@agr.wa.gov

fax (360) 902-2094 by June 8, 2006

**Assistance for persons with disabilities: Contact**

Henri Gonzales by June 1, 2006

TTY (360) 902-2061 or ( ) \_\_\_\_\_

**Date of intended adoption: June 22, 2006**

(Note: This is NOT the effective date)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The apple maggot is an insect native to eastern North America. Its hosts include apples, crabapple, and native hawthorn. In its larval development stage it can cause extensive damage to fruit. Since 1980, the Washington State Dept. of Agriculture (WSDA) has conducted annual surveys for apple maggot. During this past summer (2005) WSDA identified several apple maggots originating from multiple sites in Yakima County. Consistent with the recommendations of the Apple Maggot Working Group, this proposal amends WAC 16-470-105 by adding a larger portion of Yakima County to the existing apple maggot quarantine area. In addition, it amends WAC 16-470-111 by excluding commercial cherries from the commodities regulated for apple maggot, and modifies the current language in WAC 16-470-101, 105, 111, 115, and 118 to increase its clarity, readability, and conformity to current industry practices and standards.

**Reasons supporting proposal:** Amending the current apple maggot quarantine is necessary to protect the environmental quality and agricultural crops of the state. Failure to adopt the proposed amendments would jeopardize foreign and domestic markets for Washington apples.

**Statutory authority for adoption:** Chapters 17.24 & 34.05 RCW**Statute being implemented:** Chapter 17.24 RCW**Is rule necessary because of a:**

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

**DATE**

April 19, 2006

**NAME (type or print)**

Mary A. Martin Toohey

**SIGNATURE**

*Mary A. Martin Toohey*

**TITLE**

Assistant Director

**CODE REVISER USE ONLY**

CODE REVISER'S OFFICE  
STATE OF WASHINGTON  
FILED

APR 19 2006

TIME

10:09

WSR

06-09-055

PM

(COMPLETE REVERSE SIDE)

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

None

**Name of proponent:** (person or organization) Washington State Department of Agriculture with the support of the Apple Maggot Working Group

☐ Private  
☐ Public  
☒ Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting..... Mary Toohey	1111 Washington Street, Olympia, Washington 98504-2560	(360) 902-1907
Implementation....Dr. Brad White	1111 Washington Street, Olympia, Washington 98504-2560	(360) 902-2071
Enforcement.....Dr. Brad White	1111 Washington Street, Olympia, Washington 98504-2560	(360) 902-2071

**Has a small business economic impact statement been prepared under chapter 19.85 RCW?**

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

☒ No. Explain why no statement was prepared.

RCW 19.85.030(1)(a) requires that an agency must prepare a Small Business Economic Impact Statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. Analysis of the economic impact of the proposed rule amendments indicates that the amendments will not have a more than minor impact on the regulated industry; therefore, a SBEIS has not been prepared. However, neglecting to amend the current rule as proposed may result in loss of markets and potential exports, which would have a more than minor economic impact on the Washington State commercial tree fruit industry.

**Is a cost-benefit analysis required under RCW 34.05.328?**

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

☒ No: Please explain: The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328(5)(a)(i).

AMENDATORY SECTION (Amending WSR 01-14-075, filed 7/3/01, effective 8/3/01)

**WAC 16-470-101 Establishing quarantine for apple maggot and plum curculio.** Apple maggot (*Rhagoletis pomonella*) and plum curculio (*Conotrachelus nenuphar*) are insects with a larval (worm) stage that develops within fruit. These insects are capable of attacking many fruit crops grown in Washington. Apple maggot is not established in significant portions of the major fruit production areas east of the Cascade Mountains, and plum curculio is not established anywhere in the state. An increased range for either insect would cause decreased environmental quality and economic loss to the agricultural industries of the state by increasing production inputs and jeopardizing foreign and domestic markets. The director of agriculture, pursuant to chapter 17.24 RCW, has determined that the regulation and/or exclusion of fresh fruits grown or originating from areas infested with apple maggot or plum curculio is necessary to protect the environmental quality and agricultural crops of the state.

AMENDATORY SECTION (Amending WSR 05-09-005, filed 4/7/05, effective 8/15/05)

**WAC 16-470-105 Area under order for apple maggot--Pest free area--Quarantine areas.** (1) A pest free area for apple maggot is declared for the following portions of Washington state:

(a) Counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Lincoln, Okanogan, Pend Oreille, Stevens, Walla Walla, and Whitman.

(b) The portion of Kittitas County designated as follows: Beginning at the point where Interstate Highway No. 90 crosses longitude 120°31' W; thence southerly to the Kittitas - Yakima County line; thence easterly along ((said)) the county line to the Columbia River; thence northerly along ((said)) the Columbia River to Interstate Highway No. 90; thence westerly along Interstate Highway No. 90 to the point of beginning.

(c) ((The portions of)) Yakima County ((east of longitude 120°48' W)), except for the area designated in subsection (2)(c) of this section.

(2) A quarantine for apple maggot is declared for the following portions of Washington state:

(a) Counties of Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Klickitat, Lewis, Mason, Pacific, Pierce,

Snohomish, Spokane, Skagit, Skamania, Thurston, Wahkiakum, and Whatcom.

(b) (~~The counties of~~) Kittitas (~~and Yakima~~) County, except for the area(~~s~~) designated in subsection (1)(b) (~~and (c)~~) of this section.

(c) The portion of Yakima County designated as follows: Beginning at the northeastern corner of Yakima County on the west bank of the Columbia River; thence southerly along the Columbia River to the Yakima-Benton County line; thence southerly along the county line to latitude N46°30'; thence west to longitude W120°20'; thence north to latitude N46°30.48'; thence west to longitude W120°25'; thence north to latitude N46°31.47'; thence west to longitude W120°28'; thence north to latitude N46°32'; thence west to longitude W120°36'; thence south to latitude N46°30'; thence west to longitude W120°48'; thence southerly to the Klickitat-Yakima County line; thence westerly along the county line to the Yakima-Skamania County line; thence northerly along the county line to the Lewis-Yakima County line; thence easterly and northerly along the county line to the Pierce-Yakima County line; thence northerly and easterly along the county line to the Kittitas-Yakima County line; thence easterly and southerly along the county line to the west bank of the Columbia River and the point of beginning.

(3) A quarantine for apple maggot is declared for all states or foreign countries where apple maggot is established. The area under quarantine includes, but is not limited to, the states of Idaho, Oregon, Utah, and California, and, in the eastern United States, all states and districts east of and including North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, and any other areas where apple maggot is established.

AMENDATORY SECTION (Amending WSR 01-14-075, filed 7/3/01, effective 8/3/01)

**WAC 16-470-111** What commodities are regulated for apple maggot? All fresh fruit of apple (including crab apple), cherry (except cherries that are commercial fruit), hawthorn (haw), pear (except pears that are commercial (~~pears~~) fruit from California, Idaho, Oregon, Utah, and Washington), plum, prune, and quince are regulated under quarantine for apple maggot.

AMENDATORY SECTION (Amending WSR 01-14-075, filed 7/3/01, effective 8/3/01)

WAC 16-470-115 Within Washington state, what is required to ship fruit into the pest free area for apple maggot from quarantined ((counties)) areas? Shipment of regulated commodities, as described in WAC 16-470-111, from an area under quarantine, as described in WAC 16-470-105(2), into the pest free area for apple maggot, as described in WAC 16-470-105(1), is prohibited, unless one of the following conditions is met:

(1) The shipment is accompanied by a permit for movement of fruit issued by the department verifying one of the following:

(a) The fruit came from orchards and production sites that are not threatened with infestation; or

(b) The fruit has completed treatment as specified in WAC 16-470-118(3). If records of treatment verifying compliance with conditions specified in WAC 16-470-118(3) are made available to the department, no reinspection is required by the department.

(2) The shipment is accompanied by a permit issued by the department in fulfillment of WAC 16-470-118 (2) and (3), which specifies conditions for shipment from orchards and production sites that are infested or threatened with infestation.

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AMENDATORY SECTION (Amending WSR 01-14-075, filed 7/3/01, effective 8/3/01)

WAC 16-470-118 Within Washington state, what is required to ship fruit into, within, or through the pest free area for apple maggot from an orchard or production site that is infested or threatened with infestation? All regulated commodities, as described in WAC 16-470-111, from an orchard or production site that is infested or threatened with infestation by apple maggot must be ((sampled and)) inspected (except graded culls - see subsection (4) of this section) by the department following accepted agency standards.

(1) If regulated commodities are inspected and found free of apple maggot, the shipment must be accompanied by a permit for movement of fruit issued by the department.

(2) If regulated commodities are found to be infested with apple maggot, a permit from the department, which specifies conditions for handling and shipment, is required to transport the fruit within or through the pest free area. No permit may be issued under this subsection for transportation of regulated commodities found to be infested with apple maggot into the pest free area for apple maggot.

(3) If regulated commodities are found to be infested with apple maggot, one or more of the following treatments must be performed and verified by the department as specified in WAC 16-

470-115 (1)(b) before the commodity is moved from area(s) designated or quarantined by the department:

(a) Apples (including crab apples) cold treated as specified in WAC 16-470-113 (1)(a).

(b) Regulated commodities cold treated as specified in WAC 16-470-113 (1)(b).

(c) Other methods as prescribed in writing by the department.

(4) If the shipment contains graded culls, it must comply with the conditions specified in WAC 16-470-113 (1)(a) and (b).